

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ENRIQUE ZARAGOZA, No. C 08-01182 CW (PR)
Petitioner, ORDER OF TRANSFER
v.
W.J. SULLIVAN,
Respondent.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus. He seeks leave to proceed in forma pauperis (IFP).

Federal statute allows "the Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). A federal petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a State court is properly filed in either the district of confinement or the district of conviction. Id. § 2241(d). Where a case is filed in the wrong venue, the district court has the discretion to transfer it to the proper federal court "in the interest of justice." See 28 U.S.C. § 1406(a).

Here, Petitioner challenges a conviction and sentence incurred in Sacramento County Superior Court, which is in the venue of the

1 Eastern District of California. See 28 U.S.C. § 84. Accordingly,
2 that is the proper venue for this action.

3 Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), and
4 in the interest of justice, the Clerk of the Court is ordered to
5 TRANSFER this action forthwith to the United States District Court
6 for the Eastern District of California.

7 Petitioner's IFP application and motion for appointment of
8 counsel are TERMINATED as moot.

9 IT IS SO ORDERED.



11 Dated: 7/9/08

CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ENRIQUE ZARAGOZA,

Plaintiff,

v.

W J SULLIVAN et al,

Defendant.

Case Number: CV08-01182 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 9, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Enrique Zaragoza H-22428
California Correctional Institution
4B-2B-108
P.O. Box 1906
Tehachapi, CA 93581

Dated: July 9, 2008

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk